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In re Application of NAKAMURA :
U.S. Application No.: 09/509,968 :
Int. Application No.: PCT/JP99/04226 :
Int. Filing Date: 05 August 1999 :
Priority Date: 06 August 1998 :
Attorney Docket No.: 49774.20002.00 :
For: GAME APPARATUS AND :
COMMUNICATION GAME SYSTEM :

DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" and "Petition to Correct Inventor's Name" filed 17 April 2001.

BACKGROUND

On 05 August 1999, applicant filed international application PCT/JP99/04226, which claimed priority of an earlier Japan application filed 06 August 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 15 February 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 06 April 2000.

On 04 April 2000, applicant filed national stage papers with the United States Designated/Elected Office (DO/EO/US) including, *inter alia*, the requisite basic national fee.

On 12 June 2000, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration had not been received.

On 17 April 2001, applicant filed the present petition under 37 CFR 1.137(b). The petition states that it is accompanied by a proper response to the Notification of Missing Requirements, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." The 17 April 2001 submission also included a petition to correct the inventor's name.

DISCUSSION

I. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), as discussed in §II below, the declaration filed 17 April 2001 is not acceptable at the present time.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

II. Petition to Correct the Inventor's Name

A review of the application file, including applicant's arguments in the present "Petition to Correct Inventor's Name", reveals that the given name of the inventor is listed in the international application as "Takayuki" while the given name is listed in the declaration as "Takashi". In that this is clearly more than a mere typographical error or a phonetic misspelling of the inventor's given name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. The requisite petition fee of \$130.00 has been received. Statements from the inventor and any other persons having firsthand knowledge of the error must be provided. These statements shall set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition to correct the inventor's name is DISMISSED without prejudice.

According to USPTO records, applicant has submitted \$170.00 in excess fees. \$170.00 will be refunded to Deposit Account No. 03-1952.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b) and 37 CFR 1.182" and must include an acceptable explanation of the facts as discussed above.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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